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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,038

04/08/2005

Wilfried Weitzer

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23448

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW

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RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

BUCKLE JR, JAMES J

ART UNIT

PAPER NUMBER

3633

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/520,038	<b>Applicant(s)</b> WEITZER, WILFRIED	
	<b>Examiner</b> JAMES J. BUCKLE JR	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The following is a Non-Final Office action in response to communication received April 28, 2008. Claims 1, 5, 6, and 11 have been amended. Claims 13 and 14 have been added. Therefore claims 1-14 are pending and addressed below.

#### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities:
  - line 15-16 recites...."the connecting element is positioned...", the examiner believes the applicant intended to recite..."the connecting element positioned"....

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant recites in the last two lines of claim 1 that the first flank (41) is facing away from the panel element. It is unclear on how the first flank would be facing away from the panel element if the panel element comprises the first flank. Claims 2-10 are rejected for being dependent upon claim 1.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

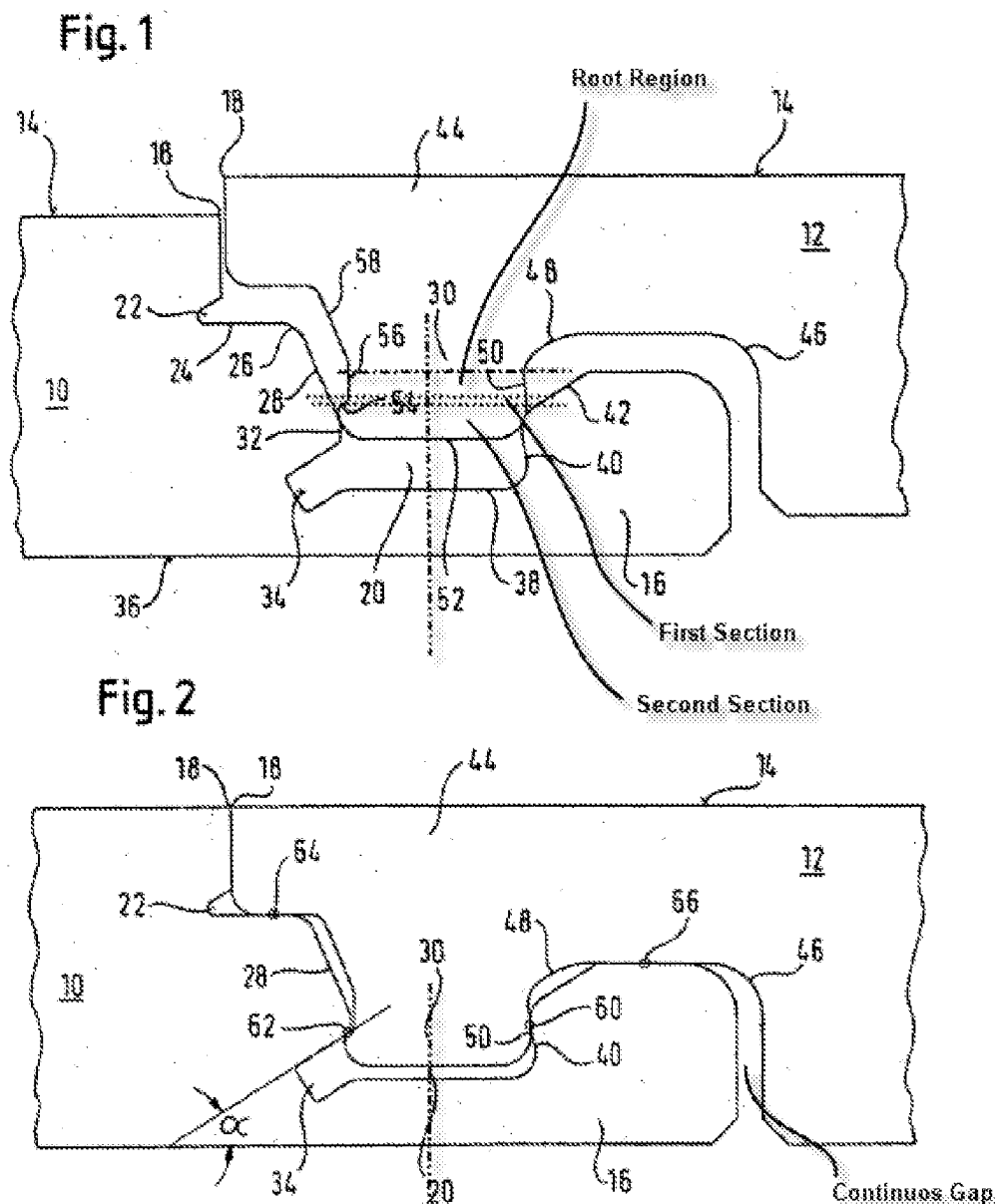
A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-9, 11-12 are rejected under 35 U.S.C. 102(a) as being anticipated by Huels (DE20203311).
6. Regarding claim 1 Huels (Fig. 1 and 2) discloses a panel element comprising a **utilization side (14), a counter draw (36) opposite the utilization side, a first side (18) having a tongue (44), a second side (18) which is located opposite the first side and has a groove (16) with a contour opposite to that of the tongue (44), the tongue having a connecting element (30) which extends substantially normal to the utilization side (14) and whose cross-section has a first flank (56) and a second flank (50) opposite the first flank (56), the cross-section of the connecting element (30) having a first section (First Section) and a second section (Second Section) essentially parallel to the plane of the utilization side (14), wherein the first section comprising a root region (Root Region) of the connecting element positioned near tile utilization side (14) and the second section (Second Section) positioned**

**adjacent and outermost to the first section (First Section) and the cross-section of the connecting element having a center line normal to the utilization side and ---viewed in the direction from the utilization side to the counter draw - the inclination of the first flank and the second flank each points from the center line outwards in the first section of the connecting element, the cross-section of the connection element is widened from the root region (Root Region) of the connecting element (30) throughout the first section (First Seciton), and in the-second section the inclination of the first flank points from the center line outwards and the inclination of the second flank points to the center line, the distance normal to the center line being reduced between the first flank and second flank, wherein the first flank is arranged on the side of the connection element facing away from the panel element.**

7. Regarding claim 2, Huels discloses an inclination of the first flank (56) and the inclination of the second flank (50) are “substantially” constant in the first section.
8. Regarding claim 3, Huels discloses the first flank (56) having an angle inclination smaller in the first section (First Section) than that of the second flank (56) in the first section.
9. Regarding claim 4, Huels discloses an inclination of the first flank (56) that is substantially constant in the second section (Second Section) and commensurate with the inclination of the first flank in the first section.



10. Regarding claim 5, Huels discloses a second flank of the connecting element (30) that is rounded in the second section (Fig.1 and 2).
11. Regarding claim 6, Huels discloses (Fig. 1 and 2) the groove (16) having a

**recess (20) with a contour opposite to that of the connecting element (30) and when the groove is connected with the tongue (44) of another similar panel element, the connection element with the first and second flank of the another similar panel element is inserted into the recess of the groove, wherein a first contact point (62) is formed between the first flank of the connecting element of the another similar panel element and the groove and a second contact point (60) is formed on the second flank of the connecting element of the another similar panel element and the groove essentially opposite to the first contact point.**

12. Regarding claim 7, Huels discloses a glue channel (34) that is formed in the recess of the groove (20) on a surface of the recess parallel to the counter draw side.
13. Regarding claim 8, Huels discloses the grove (16) further comprising a glue channel (34), wherein the glue channel being an undercut “adjacent” and parallel to the utilization side (14) and positioned opposite to the face side of tongue of the other similar panel element when the groove is connected with tongue of the other similar panel element.
14. Regarding claim 9, Huels discloses a continuous gap adjacent to at least a section of the second side formed by a tongue of one panel element being connected to the groove of another similar panel element. (“Continuous Gap”, Examiner amended Fig.2)
15. Regarding claim 11 and 12, Huels discloses, an interlocking floor

system as set forth in claims 11 and 12 (Fig.1, Examiner amended).

Examiner notes that claims 11 and 12 are virtually similar to claims 1 to 4 which have been addressed. See rejections to claims 1 to 4 above.

16. Regarding claim 13, Huels discloses a distance from the centerline to the first flank and a distance from the centerline to the second flank (Fig.1 and 2).
17. Regarding claim 14, Huels discloses a the second flank (56) of the connecting element (30) being rounded in the second section and the second contact point (60) between the connecting element of another similar panel element and the groove (16) is formed on the rounded section of the second flank essentially opposite to the first contact point.

***Claim Rejections - 35 USC § 103***

18. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huels (DE20203311) in view of Finkell, Jr. (U.S Patent No. 5,797,237).
20. Regarding claim 10, Huels discloses, a panel element as set forth above, but does not disclose a hydrophobic agent. However, Finkell, Jr. teaches a "hydrophobic agent" (Column 2, Lines 42-45) that is used to at least partially treat the panel elements to prevent deterioration by water infiltration. Huels and Finkell, Jr. are analogous art because both are from the field of endeavors of Panel elements. At the time of the invention, it would have been



obvious to a person of ordinary skill in the art to modify the panel element of Huels with the hydrophobic agent of Finkell, Jr. to produce a panel element that would not be subjected to water infiltration.

### ***Response to Arguments***

21. Applicant's arguments, see Remarks page 8, filed April 28, 2008, with respect to the rejection(s) of claim(s) 1-12 under **35 USC § 102** have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of art previously submitted by applicant. The reference submitted by applicant teaches and suggest all the limitations that was previously set forth and was not previous addressed in the previous Office Action as noted by Applicant.

### ***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian Glessner  
Examiner  
Art Unit 3633

JJB

/Robert J Canfield/  
Supervisory Patent Examiner, Art Unit 3635